## Case 1:18-cv-04586-MANTH Document 9-571 AFiled 11/08/18 Page 1 of 4 PageID #: 3278 Attica Correctional Facility BOX 149 Attica, N.Y. 14011-0149 July 18th, 2017

Honorable Janet DiFiore
Chief Judge of the Court of Appeals
Court of Appeals Hall
ZO EAGLE street
Albany, New York 12207-1095

Re: PeoPle v. Anthon's Rucano, 2011-01960 Reduest For Extension of Time And Synofsis of My Case

Your Honor

I received a letter from Chief Clerk Asiello dated July 14th, 2017, stating that MY Leave Application From Writ of Error Coram Nobis devised by the 2th Dept. on April 12th, 2017, was being heard by your Honor. This missive serves to first reducest an extension of time to Prepare and file Leave Application, and secondly, to Provide You with a brief synopsis of My case and the relevant Procedural history, as well as high fighting foints deserving special attention.

Due to high security here at Attica, I have very restricted access to the law library even with special access (WHILLIM 7-8 hours Perweek), which will inhibit MY Ability to research. Prefare and file MY brief in Just 3 weeks. As such, I respectfully reduest an extension of time of an Additional 3 weeks until August 25% 2017 to Prefare and submit MY Leave Application.

Defut I clerk Heather Pavis, in A letter dated June 21st, 2017, responded to my June 12th, 2017 letter to Chief Clerk Asiello And informed me that the Papers I submitted for Leave To Appeal From the May 19th, 2014 Order of the 2th Dept., which sought to Withdraw Appellate Counsels Brief and Assibn a new attorned were retained in the Courts files and would be forwarded to the Judbe assibned to this leave application. As such, I wanted to insure that Your Hunor has received said Papers and briefly explain how they are incorporated into the foundational argument asserted in my ceave To Appeal of this Writ of From Coram Nobis.

MY Writ of Error Coram Nobis was submitted in two Parts, each with its own Affidauit, exhibits and Memorandum of Law, and incorporates the Motion to Withdraw Appellate Counsels Brief (Appendix "B") as the foundation for Asserting Appellate Counsels failures. The summary denial of my Writ of Error Coram Nobis by the 2 mp Bept. has led me to Present the following Question to the Court which cuts straight to my foundational argument; "Whether An Appellate Counsels Failure To Assemble A Complete Record on Appeal, In Order To Fully Investibate and Determine The Appropriate Appellate Procedures To Advance Ineffective Assistance of Trial Counsels Claims ("IATC"), Amounts to Ineffective Assistance of Appellate Counsel." ("IAAC").

I Asked the 200 Dept. to First consider the Supplemental Affidavit and Memorandum of Law before the Main Affidavit and Memorandum of law, As it formed the foundation of Appellate Counsels Failures on Numerous Levels. In the main applications I asked the 2 nd Dept. to have Appellate Counsel Provide his strategic and tactical rationals Prior to the resolution of MI entire Application.

When this Court decided the Leave Application of the MAY 19th 2014 OADER to Withdraw Appellate Counsels Brief on April 4th, 2016, it decided it was not appealable Pursuant to CPL 3 450.90 (1), even though this Court Granted me Permission to file a seperate Leave Application on that ORDER.

As the Motion to Withdraw Appellate Counsels Brief (Appendix "B") is incorporated into And An integral Part of my Writ of Error Coram Nobis and Provides substantial insight into Appellate Counsels Actions. I ask this Honorable Court to take Judicial notice of the critical Leave Application of the May 19th 2014 Order standing along in its original countext, before considering my leave Application to be submitted in the near future for my Writ of Error Coram Nobis. My reason is that I firmly believe it will give this Court a much wider Perspective to my claims of appellate counsels failure. The function of appellate counsels failure. The function of and narrow circumstances of my case, not only are the Procedural bars under CPL 3440.10—when applied to ineffective assistance of counsel—unconstitutional, but the failure of CPLR 31101/1102, County Law 3722(4) and CPL 3440.30 to have funded mandates for the Assistance of counsel for Post-conviction motions in this State, renders those statutes—as applied—unconstitutional, and will lead to their Challence under the Federal Adequact Doctrine, See Supplemental Menorandum of Caucin Support of Writ of Error Coram Nobis and to Expand the Record for a thorough and detailed Albument supporting this claim.

Your Honor I can be loub winded which does not serve me well. Although I am college educated at St. Johns University, I Painfully lack the education, training and experience in the law necessary to Properly and effectively naurotate the complex and convolvted

Procedural schene in this state.

As I have arrued in all my applications before this court and in the 200 Dept., in the unique and narrowly defined circumstances of my case, I have not been frouded with counsel on my first effective appeal as of right, a Post-conviction Article 440 Proceeding, in order to Properly vindicate <u>All</u> of my claims that dehar the record of are mixed claims.

The 2 Deft. devied my Leave Application from the trial courts erroneous devial of my Article 440, which I was forced to submit Pro-Se, And devied me an evidentiary hearing. The trial court erroneously Applied both CPI \$ 440.30(1) and (4)(b), as well as a Procedural bar under CPL\$ 440.10(2)(b), stating "They are either conclusory Allebations that are not supported by any documentary evidence or affidavit, or they are based on matters that are within the record," without "clearly and expression" resting the entirety of its decision regarding my numerous ineffective assistance of counsel claims on adequate and independent state Grounds, or without explaining which specific claims the court redected on Procedural Grounds. (Garner v. Lep., 2016 WL7223335, (EDN), Dec. 13, 2016) (Judge Pamela Chen).

Your Honor, considering the above, how do the holdings of this Court rendered in People U. Evans, reflect the 2nd Dept. relying on a firmly established state Procedural rule that is rebularly applied in this State when it denied me relief at multiple Procedural Points in my Case? (Denial of Leave to Appeal of Article 440, Motion to Withdraw Appellate Counsels Brief and Denial of Writ of Error Coram Nobis).

Furthermore, how do the numerous mixed and record based claims of IATC that Appellate Counsel failed to raise, which were asserted by me in my Writ of Error Coram Nobis; not Provide substantial and meritorious claims that Appellate Counsel Warren Landau was ineffect in when @ 20fthe 3 claims of IATC that Appellate Counsel did raise were un preserved for appellate review (Appendix "A"), @ The record before this Court substantiates that Appellate Counsel secured direct and specific attack Notice of record or Partially record based claims of IATC in the form of affidavits from multiple experts and transcripts that he failed to investibate to determine their viability, and other records provided to him by the appellant (Motion to Withdraw Appellate Counsels Brief, Appendix"B"), and, most importantly @ Appellate Counsel failed to assemble a complete record on appeal in order to investibate, then determine the viability of and claims within, so he could then, and only then, render a tactical ar strategic decision on the Appropriate Appellate Procedures that he needed to use to Properly and effectively challenge said claims?

Food for Thoubht... On June 9th 2016, through FOIL I received a copy of the contract between the City of New York and Appellate Advocates, from Associate Counsel Molly Cohen of the NYC Majors Office of Criminal Justice, which Provided \$10,595,000 in City Tax Levy Funds to Pay for "Criminal defense appellate services for indibent defendants in the Z<sup>MD</sup> Dept. of the Appellate Division, Appellate Term and New York Cowt of Appeals" between July 15, 2015 and

June 30th 2017, for up to 500 Annual Assibnments.

Appendix "B", Scope of Work, "1" Assibnments, Subsection (b) of that contract clearly states "Assibnments shall include all Proceedings required to full and competential represent contractors clients, including Additional matters assigned to contractor, such as 440 motions, habeas corpus Petitions and Article 78 motions." As such, I submit that Appellate Advucates, in the narrowly defined and unique circumstances of my case, was in breach of that courtract.

I respectfully reducest that this Honorable Court examine the four corners of the record before it, as within then lie the truth and Justice I seek. Only with the help of trained, competent and experienced counsel can I present the meritorious claims within in the Proper context and form, and in a clear and concise manner. That would only occur if this Court Grants my Leave Application so that this matter can be fully briefed.

I Am seeking the help of Micah Horwitz, a Juris Ductor Candidate at Columbia Law School for Assistance, who Published "An Appealing Extension: Extending Martinez v. ASAM to claims of Ineffective Assistance of Appellate Counsel", 116 Columbia Law Review 1299 (June 2016), AS it relates to and Provides Unique insight into the circumstances of my case, I'm also contacting law firms known to Provide Rro-Bono referentation on select cases.

As it takes one week for me to bet extended Access to law library after I Provide A letter from this Court showing I have A deadline; I respectfully reducest A decision and reply on MY reducest for an extension At the Courts earliest connienance.

bod Bless this Court. I look forward to Your res Ponse for AN extension of time to file MY Leave Application, and I thank the Court in advance for its time and consideration of MY Leave Application.

Most ResPect Fully Yours, anthony Rucano

Anthony RUCANO, ILAOSZA

Cc: Hon. Michael E. McMahon District Attorney, Richmond County 130 Studiesant Place - 9 12 Floor Staten Island, N.T. 10301

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